

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALINDA BINION,

Plaintiff,

Case No. 23-12122
Magistrate Judge Elizabeth A. Stafford

v.

UNITED STATES OF
AMERICA,

Defendant.

**ORDER GRANTING PLAINTIFF'S MOTION TO SUBSTITUTE PARTY
(ECF No. 18)**

Malinda Binion, conservator and guardian of plaintiff Asa Scott, Jr., has filed a suggestion of death showing that Scott died on May 5, 2024. ECF No. 15-1, PageID.160. Binion, as the personal representative of the estate of Scott, moves to substitute as plaintiff in this action under Federal Rule of Civil Procedure 25(a). ECF No. 18.

Rule 25(a)(1) provides that “[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party” on motion “by any party or by the decedent’s successor or representative” “within 90 days after service of a statement noting the death.” In the text-only order entered on July 10, 2024, the Court granted Binion’s unopposed

motion to stay proceedings and to suspend the scheduling order for 120 days to allow time to open Scott's estate. This tolled the 90-day period under Rule 25(a)(1). For this reason, Binion's motion is timely.

Thus, the Court **GRANTS** Binion's motion to substitute.

s/Elizabeth A. Stafford
ELIZABETH A. STAFFORD
United States Magistrate Judge

Dated: September 26, 2024

NOTICE TO PARTIES ABOUT OBJECTIONS

Within 14 days of being served with this order, any party may file objections with the assigned district judge. Fed. R. Civ. P. 72(a). The district judge may sustain an objection only if the order is clearly erroneous or contrary to law. 28 U.S.C. § 636. "**When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.**" E.D. Mich. LR 72.2.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 26, 2024.

s/Julie Owens
JULIE OWENS
Case Manager